

REMARKS

Claims

Claims 10, 12, 13, 21, 22 and 24 are currently under examination pursuant to the restriction requirement mailed June 27, 2008.

Claims 1–9, 14–17 and 23 are hereby withdrawn from consideration pursuant to the aforementioned restriction/election.

Claims 11 and 18–20 were previously cancelled without prejudice or disclaimer.

Claims 25–28 are added by this paper.

Claim amendments

New claim 25 is directed to polypeptides *consisting of* the polypeptide sequence(s). Support for the claim can be found in, for example, paragraphs [0014] to [0022] of the published US specification (US pub. No. 2008-0108561). See also the disclosure in the sequence listing.

The subject matter cancelled from claim 24 is now recited in claim 26. Claims 27 and 28 are identical to claims 21 and 22, except they are directed to new claim 25.

It is respectfully submitted that the amendments do not recite new matter. Entry thereof is respectfully requested.

Restriction/election

The Examiner is thanked for agreeing to examine all the sequences in the present application. It is noted that via the previous Office Action, the Examiner has withdrawn the restriction between SEQ ID NO: 2 and SEQ ID NO: 4, and has agreed to examine both sequences on their merits in the same application. Similarly, the fragment sequences spanning amino acids 23 to 518 of SEQ ID NO: 2, amino acids 23 to 520 of SEQ ID NO: 4, amino acids 23 to 518 of SEQ ID NO: 6, amino acids 23 to 518 of SEQ ID NO: 8, and amino acids 23 to 518 of SEQ ID NO: 10, have all been examined on their merits.

Rejections under §102/§103

The claims of the instant application stand rejected under 102(b), or alternately under §103(a) as allegedly unpatentable over Gavrovic (*Allergy*, 1998), as evidenced by the disclosure in the present specification at page 4, lines 1–22. The Office Action alleges that the specification at

page 4 teaches that Sec c4 is the allergen isolated from *Secale cereale* having the amino acid sequence of SEQ ID NO: 2 or SEQ ID NO: 4. The Office Action further reasons that Gavrovic teaches the same isolated allergen from the same source, so the resulting allergen must necessarily have the sequence of SEQ ID NO: 2 or SEQ ID NO: 4. These rejections are respectfully traversed.

The Examiner contends that Gavrovic's disclosure of Sec c 4 proteins having a MW of about 55–60 kDa **and** a pI value of 9.2–9.7 anticipates the *full length* sequences of SEQ ID NO: 2 (calculated pI=9.08; calculated MW=57 kDa) and SEQ ID NO: 4 (calculated pI=9.28; calculated MW=57 kDa). The Examiner further contends that the “comprising” language in claims 24 (b) and 24 (d), which are directed to fragments of SEQ ID NO: 2 and SEQ ID NO: 4, opens it up to read on full-length SEQ ID NOs: 2 and 4, respectively.

At the outset, Applicant asserts that the fragment sequences consisting of the recited structural features fall outside Gavrovic's disclosure (i.e., calculated MW<55 kDa for all fragments and calculated pI<9.3 for the SEQ ID NO: 2 fragment). See the table below:

Polypeptide	Begins at	Ends at	Length/a.a.	pI	MW/daltons
SEQ ID NO: 2 fragment	23	518	496 a.a.	9.10	54,931.15
SEQ ID NO: 4 fragment	23	520	498 a.a.	9.29	54,904.31
SEQ ID NO: 6 fragment	23	518	498 a.a.	9.29	54,904.31
SEQ ID NO: 8 fragment	22	518	497 a.a.	9.30	54,903.32
SEQ ID NO: 10 fragment	22	518	497 a.a.	8.89	55,237.54

As such, the polypeptides recited in claim 25–27 are novel over what is taught by Gavrovic.

With respect to the broader claims at issue, Applicants will not burden the record by reiterating the previous arguments. However, to ensure that the present reply is fully responsive to all the rejection(s) set forth in the present Office Action, Applicants' remarks filed February 3, 2010, along with the evidence/exhibits submitted therewith are incorporated by reference herein in their entirety.

Favorable reconsideration is respectfully requested.

Rejection under §103(a)

Claims 10 and 12–13 are rejected under this section as allegedly unpatentable over aforementioned Gavorovic in view of Dolovich (US patent No. 5,762,943). This rejection is respectfully traversed.

It is submitted that *any* holding of obviousness based on Gavorovic's generic disclosure of Sec c 4 proteins is scientifically and legally misplaced. See Applicants' remarks and the exhibits filed with the reply of February 3, 2010. To this end, it is respectfully submitted that Gavorovic says nothing about the Sec c4 allergens having the recited sequences and specific fragments thereof that are recited in claim 25. Withdrawal of the rejection is respectfully requested.

With respect to the other dependent claims at issue, Applicants will not burden the record with a discussion of same since they merely add to the non-obviousness of claims 24 and 25. However, Applicants reserve the right to provide rebuttals against the statements in the Office Action vis-à-vis the dependent claims, at a later date, if ever necessary.

In view of the above remarks, favorable reconsideration is courteously requested. If there are any remaining issues which could be expedited by a telephone conference, the Examiner is courteously invited to telephone counsel at the number indicated below.

The Commissioner is hereby authorized to charge any fees associated with this response to Deposit Account No. 13-3402.

Respectfully submitted,

/Sagun KC/

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